

REMARKS***Restriction Response***

In the June 22, 2006 Office Action the Examiner entered a restriction requirement for the following claimed inventions:

- I: Claims 1-10, and 12 drawn to a process for recovering a metal value, classified in class 423, subclass 8+.
- II: Claims 13-18, and 11 drawn to an electrowinning process for recovering a metal value, classified in class 205, subclass 560+.

In response to the Examiner's restriction requirement, Applicants hereby elect **with traverse** Group I, consisting of Claims 1-10 and 12, for further prosecution. This election is made without waiver, estoppel or without prejudice to the filing of one or more related applications directed to the subject matter of the non-elected claims.

Applicants respectfully traverse the restriction requirement and submit that the examination of all currently pending claims would be logical and would not pose an undue burden on the Examiner. The Examiner cites MPEP § 806.05(j) and requires restriction because "the inventions have a different mode of operation since group II requires flotation and electrowinning neither of which is required by group I." Applicants contend that the other elements of § 806.05(j) have not been met, namely, the showing that the inventions in Group I and Group II are mutually exclusive. Applicants respectfully submit the Group I and Group II claims are not distinct for the purposes of restriction under 35 U.S.C. § 121. Applicants therefore respectfully request withdrawal of the restriction requirement and examination of all currently pending claims (i.e., claims 1-18).

Election of Species Requirement

In the June 22, 2006 Office Action, the Examiner also entered a species election requirement, requiring an election of a “metal value” species from the group including, but not limited to: copper, gold, silver, zinc, platinum group metals, nickel, cobalt, molybdenum, rhenium, uranium, and rare earth metals. The foregoing metal value species are set forth in the specification, but are not set forth in any of Applicants’ claims.

In response to the Examiner’s species election requirement, Applicants hereby elect **with traverse** molybdenum for purposes of the Examiner’s search and for further prosecution, and submit that all claims in Group I, consisting of Claims 1-10 and 12, are readable thereon. The foregoing election of species is made without waiver, estoppel or prejudice.

Applicants traverse the species election requirement and submit that this requirement is improper under Section 806.04 of The Manual of Patent Examining Procedure. Section 806.04 states that “where an application **includes claims** directed to different embodiments or species that could fall within the scope of a generic claim, restriction between the species may be proper if the species are independent or distinct” (emphasis added). Applicants submit that since no claims explicitly set forth one or more individual metal value species, the species restriction is improper under MPEP § 806.04. As such, Applicants respectfully request that the Examiner withdraw the species election requirement and examine all currently pending claims with the generic “metal value” claim.

CONCLUSIONS

For the foregoing reasons, Applicants respectfully submit that the application is in condition for examination on the merits, and that the claims as originally filed are patentable. Applicants hereby petition for any extension of time necessary to timely file this response and respectfully request that any fees due be charged to Deposit Account No. **19-2814**. A duplicate copy of this sheet is enclosed.

Should the Examiner wish to discuss any of the foregoing in greater detail, the Examiner is invited to telephone the undersigned at the Examiner's convenience.

Respectfully submitted,

Dated: 23 October 2006

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